



# Hiring a Consultant- What You Should Know!

#RR-635

The Dry Cleaner Environmental Response Program

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The following information is designed to help you work your way through the process of consultant hiring if you suspect you have contamination or if you know you have contamination and need to move forward in your site cleanup. For more detailed information on selecting an environmental consultant, visit the Bureau for Remediation and Redevelopment web page at [www.dnr.state.wi.us/org/aw/rr/cleanup/select\\_ec.html](http://www.dnr.state.wi.us/org/aw/rr/cleanup/select_ec.html). A free publication may also be ordered by calling the information line at 1-800-367-6076 (long distance in-state) or (608) 264-6020 (local or out of state) and asking for publication # SW-502.

## What is QBS and how does it work?

Most of the consulting services you will need are required by rule to be selected using a Qualification Based Selection (QBS) system. QBS assumes that specific qualifications, rather than price alone, are the best guarantee of a successful relationship between the owner and the consultant. The QBS process identifies three steps to success: defining your project; reviewing proposals; and selecting your consultant. You are not required to select the lowest bidder when selecting a consultant, however, if you do not select the lowest bidder, you must justify your selection to the Department before entering into a contract with the consultant.



## First things first - compile information about your site

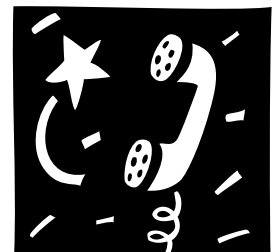
Before you begin soliciting consultants, you need to know what you are going to ask them to do. When first starting, it is a good idea to compile all information you know about your site. Include potential sources of contamination, records on materials and products used or stored on site, and information on how and where those materials were handled on site. Prepare a brief written description of the historical use of the site, current use, and what problems need to be addressed. Any information you can provide makes it easier for the consultant to understand the specifics of your site, and allows them to put together a better workplan for site activities.

## Finding Consultants

One good method of finding a consultant is to contact professional associates in companies in your industry, or professional associations you may be a member of, who can recommend consultants that have satisfactorily investigated or cleaned up sites similar to yours. Be aware that the DNR does have requirements for minimum qualifications for report submittals for environmental consultants, which can be found in NR 712, Wis. Adm. Code. The DNR, however, cannot recommend consultants or comment on any consultant's business practices.

## Talk with Other Dry Cleaners

Find out who other dry cleaners have worked with and whether they were satisfied with the results. Ask other dry cleaners questions such as whether the consultant discussed options available, worked cooperatively with the DNR, kept costs within the bid requirements, and whether there were cost overruns or change orders needed. Talking with other dry cleaners about their experiences can help you narrow down your search for the best firm for your situation.



## Talk with the Consultants

There are several factors to consider when hiring a consultant. Like hiring any service provider, it pays to ask questions and understand the services you expect to receive. In developing the rules for the Dry Cleaner Environmental Response Program, all participants agreed with one concept - the more involved the dry cleaner is in the activities, the more involved they are in discussions with the DNR and planning the action, the better the outcome, the better the cost controls, and the better the management of the project overall. You don't need to be intimidated by technologies or processes - ask questions of the DNR and your consultant and don't stop until you understand what is being explained. Talk with the actual project manager that would be working on your site. And lastly, use your common sense - if you're not comfortable with the dealings you are having with a particular consultant, don't disregard your instincts.

## Check References



When you narrow your search to a few consultants, ask for references. Have they investigated or remediated any other dry cleaning solvent releases? Have they successfully brought sites to closure at the DNR without having to go back and do additional work, increasing cost and delaying completion of the project? Have they done cleanups in similar geologic settings or with similar compounds? Do they have specific technologies that they have expertise in that may be appropriate for your site? Did they communicate well with other clients? Were the clients satisfied with deadlines being met, understanding the process, and relations with them and the DNR? All

of these questions can help you decide which consultant would fit best with your needs.

## Educate yourself on hiring requirements!

Know the specific requirements for the Dry Cleaner Environmental Response Program for hiring a consultant. The dry cleaner program rule, ch. NR 169, Wis. Adm. Code has specific requirements not only for consultant selection, but also requirements for project billing and cost documentation. The consultant selection requirements are based on a Qualification Based Selection system (QBS) and require that you solicit at least 3 proposals for interim actions, site investigations (including the development of the remedial action options report), and selection of remedial action activities (including design and implementation of the remedial action). Chapter NR 169 specifies that each proposal include a cost estimate for each service provided by the consultant. The rule also specifies that proposals shall state the consultant's ability to do the following:

- Be fully informed about the project's scope and required services, and have the experience and ability to analyze alternatives and design the most suitable response action consistent with technical and economic feasibility, environmental statutes and rules, restoration timeframes, and the latest technical advances.
- Provide necessary staff and facilities for all phases of planning, investigation, design, construction, and operation.
- Retain and confer with specialists on unusual matters; provide qualified technical reviewers, who will keep the owner advised on technical and regulatory matters and work toward planned remediation goals.
- Perform all services in an ethical, professional and timely manner



## When you need a proposal

Because of the nature of immediate response activities, you will not have time to obtain written proposals for those actions and therefore they are not required. You may select the contractor of your choice when conducting an immediate action, but some of the same advice on hiring a consultant provided in this fact sheet may still apply. However, for interim remedial actions and remedial activities (both the site investigation as well as the remedial action itself), you will need to obtain and review 3 proposals prior to selecting your consultant.

## Proposal Requirements

Proposals submitted by consultants must include each of the following:

- A clear description and itemization of the consultant and contract services included in the proposal or estimate. The description shall be based on an approved workplan or, if there is no workplan, on a good faith estimate of the scope of the project as stated in the proposal or estimate.
- A total cost estimate for all of the consultant and contract services included in the proposal or estimate, and a subtotal price for each of the component services itemized in the proposal or estimate.
- A certification of insurance from an agent licensed in Wisconsin of the following:
  - the consultant has coverage for errors and omissions;
  - the consultant maintains coverage for comprehensive general liability which includes pollution impairment liability coverage, for a minimum of \$1,000,000 per claim and a minimum of \$1,000,000 in annual aggregate claims;
  - the policy general liability policy is an occurrence based policy or is a claims made policy with a 3 year extended reporting period; and
  - the maximum deductible amount of the general liability policy (if the maximum deductible exceeds \$25,000, the consultant must furnish proof of financial responsibility acceptable to the department for the amount of the deductible).
- A certification that the consultant and contract services will comply with ch NR 169 and the NR 700 rule series.
- For services priced on an hourly or per unit basis:
  - The price per hour or per unit of service
  - A reasonable, good faith estimate of the number of hours or units of service to be provided
  - The total estimated price for the service
  - The estimated date by which the consultant and contractor will perform their services

Cost estimates for the following services must be priced on an hourly or per unit basis.

- Excavating.
- Trucking.
- Waste treatment or disposal services.
- Drilling, including at-depth soil sampling and well installation.
- Laboratory services.
- Services normally billed on an hourly or per unit basis.
- Professional or personal services, including engineering, hydrogeologic, field technician and general contracting services. These costs must also include a maximum total price for each service, and a statement of professional qualifications for every person whose professional services are included in that proposal.

## What if actual costs exceed the proposal costs?

The department will not reimburse for consulting service costs that exceed their proposal for those services.

However, the consultant may be eligible for reimbursement of additional costs not included in the proposal, or if the hours or units of service are greater than what was included in the proposal if the following conditions are met:

- The consultant providing the additional services was selected using the qualification based selection process.
- The consultant bills for the additional services at the same or lower per-unit price at which the consultant agreed to provide equivalent services, if any, in the consultant's initial proposal.
- The consultant provides the eligible applicant with a cost estimate for the additional services before performing those services. The department may require the owner or operator to obtain competitive proposals for the additional services if the department finds that the cost estimate is unreasonable.
- If the total cost of additional services exceeds \$3,000, the owner or operator provides the department with a copy of the cost estimate before authorizing the consultant to proceed.
- The owner or operator gives the consultant written authorization to proceed with the additional services, after receiving the consultant's estimate.
- The cost for the additional services does not exceed the consultant's estimate.
- The additional services do not involve the selection, design or installation of groundwater remediation.

## Watch out for:

- Cost estimates significantly lower than other bids
- Overly optimistic timelines
- Strong contractor biases for or against certain cleanup remedies
- Conflicts of interest
- Strategies that minimize time or money, at the expense of maximizing potential technical or legal problems



Make sure you see, in writing, the terms of the contract including who will do what, and by when. Before signing the contract, be sure it includes language which allows you to terminate the contract if you are not satisfied with the consultant's work.

## Switching Consultants

It is your responsibility to be sure your consultant is performing the work according to your contract with them. Routing progress reports will help you determine if your project is proceeding on schedule. If you are not happy with the work being performed by your consultant, there are several options available to you. You may need legal counsel to determine whether you have any contract violations with your consultant. In addition, you may want to discuss your concerns with the DNR project manager, to be certain that work being conducted on your site will be acceptable to the department. **Keep in mind that the DERF will not reimburse you twice for the same work being performed at your site.** If you have a "feeling" that things are not right with your consultant, act on those feelings - your business sense often makes you a better judge than you think in terms of ensuring a quality product. And remember that the dry cleaner program requires competitive bids for several phases of the cleanup action - if your consultant wants to keep your business, they need to be sure they address your concerns all along the cleanup path.

## Good Luck!

Lastly, keep in mind that the DNR is not your enemy, and conducting a successful cleanup requires good communication with everyone. While your DNR project manager often has numerous sites they are dealing with on a daily basis, answering your questions also part of their job.

